

News from Ed Markey

United States Congress

Massachusetts Seventh District

June 11, 1998

The Honorable Alan Greenspan
Chairman
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Dear Mr. Chairman:

This morning's paper reports on a disturbing new intrusion into the privacy of personal financial information (see Robert O'Harrow, Jr., "For Sale on the Web: Your Financial Secrets," Washington Post, June 11, 1998, at A1).

Specifically, the aforementioned article indicates that information about a consumer's bank accounts and investments is being made publicly available over the Internet by certain data broker firms. For a few hundred dollars, anyone reportedly can buy confidential financial information about another individual, including information about an individuals' bank accounts, stock purchases or investments in mutual funds.

These revelations only underscore my concerns about the nature and adequacy of current legal protections for the privacy of personal financial information. As you may recall, when the House recently took up of H.R. 10, the Financial Services Act, I attempted to offer an amendment which would have prevented financial services firms from transferring or selling personal financial information for cross-marketing purposes without the express prior affirmative consent of the consumer. Unfortunately, the Republican leadership blocked by amendment from being made in order under the Rule providing for House consideration of this bill.

In preparation for the debate on my amendment, I directed my staff to analyze the current legal protections against transfers of personal financial information, and I am enclosing, for your information, a copy of two recent statements I have made which summarize some of the applicable laws in this area. As you can see, the current legal protections are far from adequate in preserving the confidentiality of sensitive personal financial information. I therefore continue to believe that additional legislation is needed in this area in order to protect consumers from intrusions into the confidentiality of their personal financial information.

However, the revelations contained in the Post article raise other questions, which may at least in part be addressable by the Federal Reserve. Accordingly, I would appreciate your assistance and cooperation in responding to the following questions:

1. In recent testimony before the House Finance and Hazardous Materials Subcommittee, the Fed indicated that it has begun to examine certain privacy-related issues, such as "identity theft," and it noted the "importance of balancing individuals' important privacy interests with the legitimate needs for information by law enforcement agencies, businesses, and others in both the public and private sectors." In the recent NationsBank/NationsSecurities case, the SEC reported that NationsBank shared with its securities affiliate customer account balance information and lists of customers with maturing CDs for cross-marketing purposes (see relevant citations from the SEC consent decree in this case, which are cited in the attached statements)? Does the Fed believe that the bank's customers should have been given notice and the right to say no before this occurred?

2. How commonplace do you think the practices described in this case are? Has the Fed ever taken any action to safeguard consumers privacy from this type of cross-marketing?

3. A March 30, 1998 letter sent to the General Counsel of the Federal Reserve by the law firms representing Travelers and Citicorp prior to the public announcement of their proposed merger asks if the Fed disagrees with a number of actions their clients plan to undertake in connection with the merger. One item discussed in the letter stated: The banks have been engaged in a major ongoing project to develop a demographic and transaction database on customers to market products and services more efficiently. The Banks and the Insurance Companies would expect to share such information on customers, consistent with the requirements of laws relating to the protection and transfer of customer information, for the purpose of marketing. (emphasis added) My concern is that there are virtually no laws in place that seem to provide very much protection against transfer of sensitive customer information. Is the Federal Reserve Board at all concerned that the cross-marketing plans in this proposed merger will create new challenges to consumer privacy? Does the Fed believe that Citicorp and Travelers' customers should have the right to know what information these companies are gathering about them? Do you believe they should have the right to prevent such information from being shared between affiliates or with non-affiliates for cross-marketing?

4. In the Cable Act of 1984, Congress prevented cable companies from using personally identifiable customer information for cross-marketing purposes if the consumer objected. In the Telecommunications Act of 1996 we prevented the phone companies from doing the same thing without the prior written approval of the consumer. Now, why should banks and other financial services firms be exempt from the same type of restrictions? What makes them so special that they should be held to a lower standard when it comes to protecting consumer privacy?

5. As you may know, the European Community has issued a directive which may restrict electronic commerce with nations which fail to provide adequate privacy protections for consumers. In light of the apparent shortcomings in existing privacy protections in the U.S., is the Fed at all concerned that we may be unable to meet the EC's privacy standards? If this were to occur, what would be the impact on financial and commercial transactions between the U.S. and Europe?

Thank you for your assistance and cooperation in responding to this inquiry. I request that a response be provided within 15 working days, or no later than close of business, July 2, 1998.

Sincerely,

Edward J. Markey
Member of Congress